

Government Measure

On guaranteeing equal treatment
for religious bodies holding
occasional activities in public places

BCN

December 2017

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Ajuntament de
Barcelona



Area of Citizens' Rights, Participation and Transparency

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1. INTRODUCTION

One of the phenomena that characterises our city most clearly is its growing diversity, and religious affiliation is an example of this. This diversity is not new but it has developed more quickly in recent years. It has been fed by migration on the one hand and a change in the social paradigm that has occurred in all societies on the other, which is gradually introducing dialogue into all spheres of life in response to a feeling of uncertainty. A rigorous analysis of our society shows it has never been homogenous but, today, the interdependence between a globalised society and the various groups that are part of it is increasing the plurality that characterised it in times gone by, opening up new opportunities but also giving rise to some challenges and conflicts.

We have seen how, in recent years, religious movements have become more prominent and more important around the world, a development that is evident in our city. In 2015, there were 513 centres of worship in Barcelona, belonging to 21 religious traditions. This heterogeneous and plural society, where people and groups with different ideologies and beliefs live side by side, is now facing a number of debates over what access religious organisations should have to the public space.

While each person's religious beliefs are obviously a private matter, it is equally obvious that those beliefs are usually expressed collectively. As a rule, this collective expression takes place in centres of worship but, occasionally, it can also take place on the streets or in public buildings.

Processions are possibly the best example of religious ceremonies that take place on public thoroughfares but the activity of religious organisations can include setting up information stalls there as well. We should also remember that, during certain festivals, the centres of worship do not have sufficient capacity to accommodate all those who want to take part, so some religious bodies request the occasional use of public facilities where they can hold these

events and meet all the safety requirements.

There is no statutory provision to prevent these activities taking place outdoors or, from time to time, in public centres because of their religious nature. In fact, the practice of religion is specially protected in our legal system, the only restriction being that the public authorities must remain neutral and safeguard public morals, health and safety. The response to requests to use the public space or public facilities must therefore be based on criteria that are clear enough to prevent possible situations of discrimination, and flexible enough to respond to the needs of the various communities.

Given the greater variety of demands in relation to the expression of religious beliefs and other forms of conscience, public employees need to be equipped with instruments that enable them to manage these requests adequately. It was with this aim in mind that the *Observatory of Religious Pluralism in Spain* published a guide in 2013 called *Vía pública y libertad religiosa* [The public highway and religious freedom]. This guide, a compendium of recommendations for local councils on the expression of religious beliefs in public places, has been a source of reference for drafting this government measure. The Directorate-General of Religious Affairs has also published a Catalan version of the guide, which takes into account the specific features of Catalonia and its legislation.

The purpose of this measure is, therefore, to provide tools for council staff, as well as religious and other organisations of conscience, carrying out activities in the public sphere. It offers criteria for handling requests from religious entities to carry out all kinds of activities (not just worship but others as well) outdoors and in public facilities. It also develops the lines of work started by previous city governments in providing municipal support for religious bodies. In fact, this is a central part of the work carried out by the Office of Religious

Affairs (hereafter the OAR). Finally, the measure includes an innovative Religious Diversity Training Plan to raise awareness of the plurality of beliefs in the city.

As a local government body committed to the defence of human rights, Barcelona City Council has a duty to put a framework to manage religious diversity in place that is compatible with the current legal framework. In defence of the basic freedom of religion and conscience on the one hand, and secularism on the other, the latter understood to mean the framework of public authority neutrality within which all

matters of conscience, religious or not, can exist side by side on equal terms and with due respect. The ultimate aim of this measure is, therefore, to move forward on respect and guarantees for the fundamental right to freedom of religion and conscience recognised in our basic legislative texts and all kinds of international treaties and agreements.

All these actions will be driven by the Department of Citizens' Rights and Diversity, with political guidance from the Fourth Deputy Mayor's Office.

2. GENERAL REGULATORY FRAMEWORK

2.1. The different conceptions of religious freedom and their recognition in the Universal Declaration of Human Rights

Faced with cultural and religious diversity, states respond differently in their relationships with the various religious communities. Broadly speaking, there might be a tendency towards acculturation and accepting the majority public culture, restricting religious identity to the private sphere. Another possibility is closed communities, where the different communities do not share a common public culture. Finally, there is a trend towards interdependence between a legitimate public culture for all groups that embraces diversity and their own identity. This latter perspective applies the equality of differences principle, whereby all communities are guaranteed the same right to religious freedom and freedom to exercise and manifest their religious tradition.

also limits even further any possible restrictions on the right to religious freedom, establishing that these restrictions (based on the conditions already set out in Article 18 of the ICCPR) must be necessary and prescribed by law.

The Universal Declaration of Human Rights recognises the right to religious freedom and goes further. In fact, Article 18 not only establishes freedom of religion as a fundamental right, it stresses that this includes the freedom to manifest one's religion individually or collectively, both in public and private.

The International Covenant on Civil and Political Rights (ICCPR), also in Article 18, insists on this right and sets limits on any possible restrictions: it can only be subject to the "protection of public safety, public order, public health and public morals, and the basic rights and freedoms of others".

In the same vein, General Comment 22 adopted by the Human Rights Committee, expands on Article 18 of the ICCPR, while qualifying how it should be interpreted. It points out that the terms "belief" and "religion" should be understood in their broadest sense, so that those established more recently or which may represent minorities that might be vulnerable to discrimination are not excluded. It also considers that the right to manifest one's own religion includes a wide range of practices and activities that go from religious rituals, ceremonies and festivals to rules on dress, food, education and community organisation. It

2.2. Protection of religious freedom in the Spanish state and Catalonia

The Spanish Constitution (SC) “guarantees the freedom of ideology, religion and worship of individuals and communities, with no further restriction on their expression than that required to maintain public order as protected by law” (Article 16.1. It establishes that “no denomination shall have a state character”, and that “public authorities shall take into account the religious beliefs of Spanish society and maintain the consequent relations of cooperation with the Catholic Church and other denominations”. (Article 16.3 SC).

The non-confessional nature of the State, enshrined in the Constitution, flows from these guarantees, along with a commitment on the part of the public authorities not to interfere in the exercise of the right to freedom of religion and worship. As does the State’s duty to collaborate with religious bodies and organisations of conscience to allow everyone to exercise this right.

In implementing the constitutional mandate guaranteeing freedom of religion and worship, the Spanish State approved the Framework Act on Religious Freedom (hereafter LOLR) on 5 July, 1980. This reiterates that the State guarantees the basic right to freedom of religion and worship, pointing out that “religious beliefs do not constitute a reason for inequality or discrimination”, and designs a common legal framework for all religions in Spain. In that regard, the LOLR established the procedure for recognising the legal personality of religious bodies, by creating the Register of Religious Entities and other instruments to give shape to the Spanish State’s cooperation with the various religious faiths.

Article 2.1 of the LOLR, sets out the nature of religious freedom, namely the right of everyone to::

- a) **Profess whatever religious beliefs they freely choose or profess none at all;** change or relinquish their faith; freely express their own religious beliefs or lack

thereof, or refrain from making any statement on their beliefs.

- b) **Take part in acts of worship and receive religious support from their own faith;** celebrate their festivities; hold their marriage ceremonies; receive a decent burial, with no discrimination on religious grounds, and not be forced to take part in acts of worship or receive religious support contrary to their personal convictions.
- c) **Receive and give religious education and information of any kind, orally,** in writing or by any other means; choose religious and moral education in keeping with their own convictions for themselves and any non-emancipated or incapacitated minors in their charge.
- d) **Meet or assemble publicly for religious purposes and form associations to conduct their religious activities as a community** in accordance with ordinary legislation and this Framework Act.

Likewise, Article 2.2 of the LOLR assigns the following rights to religious bodies: the right to establish places of worship or assembly for religious purposes, the right to appoint and train their ministers, the right to promulgate and propagate their own beliefs, and the right to maintain relations with their own organisations or other religious denominations, in Spain or abroad. The right to freedom of religion and worship is thus seen as an individual right all people have and a collective right of religious bodies themselves.

The State has also signed agreements with various denominations: (1) the Agreements with the Catholic Church on legal matters, economic questions, on education and cultural matters, as well as on religious support for the armed forces and military service for the clergy, all signed in the Vatican on 3 January, 1979; (2) the Cooperation Agreement between the State and the Federation of Evangelical Religi-

2.3. Secularism as a framework for the relationship between the public authorities and religious denominations

ous Entities of Spain (FEREDE), Act 24/1992; (3) the Cooperation Agreement with the Federation of Israelite Communities of Spain (FCIE), Act 25/1992; and (3) the agreement with the Islamic Commission of Spain (CIE), Act 26/1992.

In general terms, these agreements govern the way churches, associations, commissions and religious federations work, as well as the mechanisms that guarantee believers the right to exercise their religion, especially with regard to specific issues such as urban planning and property regulations applicable to centres of worship, the religious education and training of their children in accordance with their principles and mandates, the civil validity of religious marriages, access to religious support in prisons, hospitals, care centres and so on. They also govern the regulations for ministers of each religion, the means of financing each church, the media for spreading their faith, religious festival days and so on.

Catalonia's Statute of Autonomy also refers to the need to guarantee everyday community life with no discrimination on religious grounds, as well as respect for the diversity of beliefs and pluralism found in society (Articles 40, 42 and 52). Article 161 refers specifically to the Generalitat's powers in religious affairs and implementing the agreements between different denominations and the State.

The word "secularism" refers to a political concept that means the separation of political and religious powers. It is a modern concept for the political organisation of society according to which the State, as the incarnation of the popular will in a given territory and the legal institution regulating normal life in the community, is above any social power and all religious institutions, symbolic traditions and life philosophies in particular.

Secularism is not understood to mean the absence of religion from public spaces but the framework within which, from the perspective of democracy and guaranteeing basic rights, all expressions of conscience (religious or not) can coexist on equal terms and with respect. Within this framework, the public authorities must adopt an attitude of active neutrality that enables them to promote and regulate normal community life, thus ensuring equal treatment to diverse sensitivities.

Secularism does not mean expelling religious reality from public places, nor confining it exclusively to the private sphere. We believe these reductionist extremes represent a substantial loss to society and the democratic state in many ways, as well as risk of social division. Consequently, the management of religious diversity must square with a secular model that can accommodate a diversity of beliefs based on mutual recognition. This perspective fits in with a society that respects differences and encourages communication, to democratise and strengthen the public space.

Secularism is a form of governance based on a combination of two great principles: equal treatment and freedom of conscience. In theory, therefore, it means:

- Recognising religious and conscientious diversity in our society and helping to accommodate this diversity.
- Separating and not confusing the State's aims with those of religious traditions.

- The political authorities remain neutral and above exclusive confessionalism and secularism.

The activity of religious bodies, their presence in public spaces and their relationship with local authorities must be viewed in the light of this legal framework, as is the case with any other citizen association. Secularism is not just a question of respecting and recognising different beliefs but also adopting an active approach to building peaceful coexistence between equals.

It is therefore vital to avoid any kind of discrimination against religious or conscienti-

ous organisations due to the religious nature of their activities, or any exceptional treatment. Religious and conscientious organisations are citizens' organisations, often linked to specific areas of a city, that have a right to the occasional use of facilities and other public spaces for their activities. The limit secularism sets on their activities is basically a question of public order. This ensures a governance framework of religious and conscientious diversity that is compatible with respect for the Universal Declaration of Human Rights and the legal framework in force.

3. RELIGIOUS DIVERSITY IN BARCELONA

3.1. Presence of diverse religious traditions in the city: diversity of traditions, centres of worship, territorial distribution

The assertion that Barcelona is a religiously diverse city probably comes as a surprise to no one today. Yet, aside from merely asserting it, many people would find it difficult to give any details about this diversity, say what it form it takes and how it is expressed.

Centres of worship¹ are very useful for providing an initial evaluation of this religious diversity. They are one of the clearest ways by which religious communities establish their presence and make themselves visible in society. For some these centres represent the main form of association and a barometer of community organisation and leadership. Moreover, they become a reference point for both com-

munity members and other residents, associations and public authorities in the area.

One of the tasks of the OAR is to keep the city's religious diversity map up to date. In 2015, the OAR counted 513 centres of worship in Barcelona belonging to 21 religious traditions. Of these nearly half (47.3%) belong to the Catholic Church². These are followed by the evangelical churches (32 %) in all their diversity, Muslim prayer centres (4.8%), Buddhist centres (4.8%), the kingdom halls of the Jehovah's Witnesses (3.1%) and other communities with fewer open centres or worship in the city.

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Direcció de Serveis
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for religious bodies

1. According to Act 16/2009 on Centres of Worship, a centre of worship is understood to mean *"the building or premises open to the public, publicly or privately owned, recognised, declared and certified by the respective church, denomination or religious community legally recognised in accordance with the Framework Act on Religious Freedom, and destined mainly and permanently for the collective exercise of religious activities"*.

2. The figures corresponding to the Catholic Church were taken from the Barcelona Archdiocese Guide (<http://www.arquebisbatbarcelona.cat/node/5736>). The data on other religious communities were drawn up by the OAR

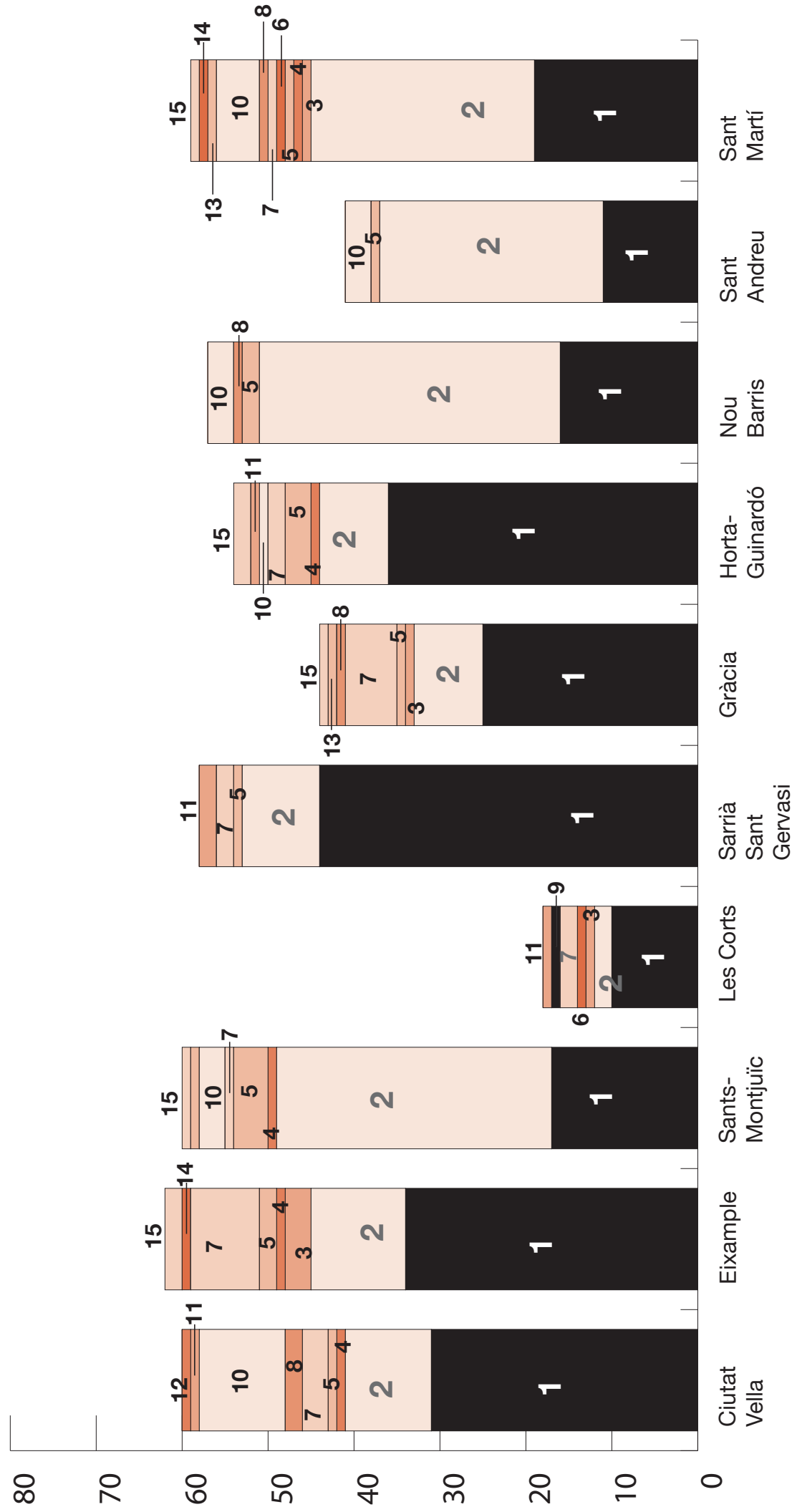
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Centres de culte Barcelona 2015 (districtes)	Ciutat Vella	Eixample	Sants-Montjuïc	Les Corts	Sarrià-Sant Gervasi	Gràcia	Horta-Guinardó	Nou Barris	Sant Andreu	Sant Martí	Total
Cristianisme catòlic (parròquies i esglésies no parroquials) [1]	31	34	17	10	44	25	36	16	11	19	243
Cristianisme evangèlic (esglésies) [2]	10	11	32	2	9	8	8	35	26	26	167
Cristianisme ortodox (comunitats) [3]	0	3	0	1	0	1	0	0	0	1	6
Església Adventista del Setè Dia (iglesias) [4]	1	1	1	0	0	0	1	0	0	1	5
Testimonis Cristians de Jehovà (salons del Regne) [5]	1	2	4	0	1	1	3	2	1	1	16
Església de Jesucrist dels Sants dels Darrers Dies (capelles) [6]	0	0	0	1	0	0	0	0	0	1	2
Budisme (centres) [7]	3	8	1	2	2	6	2	0	0	1	25
Hinduisme (centres) [8]	2	0	0	0	0	1	0	1	0	1	5
Fe Bahá'í (centres) [9]	0	0	0	1	0	0	0	0	0	0	1
Islam (oratoris) [10]	10	0	3	0	0	0	1	3	3	5	25
Judaisme (sinagoga) [11]	1	0	0	1	2	0	1	0	0	0	5
Sikhisme (temples) [12]	1	0	0	0	0	0	0	0	0	0	1
Taoisme (centres) [13]	0	0	1	0	0	1	0	0	0	1	3
Església de Scientology (centres) [14]	0	1	0	0	0	0	0	0	0	1	2
Altres* [15]	0	2	1	0	0	1	2	0	0	1	7
Total	60	62	60	18	58	44	54	57	41	59	

Otros (7): Congregació Cristiana a Espanya, Església Cristiana Essència d'Espanya, Església de Crist Dante Aligheri, Església Nueva Apostólica en España, Associació Espiritual Mundial Brahma Kumaris, Congregació Unitària Universalista de Barcelona, Església d'Unificació.

Source: Based on OAR data.

Centres de culte Barcelona 2015 (districtes)



3.2 Types of activities organised by minority religious traditions in Barcelona

These centres are spread right across the city, which means there are at least four religious traditions in each district, so we cannot attribute religious diversity to specific areas. When it comes to choosing the site of their centres, religious bodies either look for somewhere close to where their members live or for affordable land or premises in areas where few people live, so the community's activity will have little impact on the surrounding area.

As a result, these places of worship are often small and may not be big enough to hold all the people who go there, especially for big religious festivals, visits by religious or spiritual leaders, gatherings of various communities and other occasional events. There are also activities that, by their very nature, have to take place outdoors (processions and similar events).

It is for these occasional or special events and activities that religious organisations may need other spaces, which is why they often turn to municipal facilities (especially civic centres, neighbourhood centre and sports centres). In the course of 2015, the OAR monitored 56 events and activities that religious bodies in the city organised in municipal facilities or outdoors, which does not exclude others they may have arranged directly with the districts or which, in the end, were held in private centres or facilities.

By their very nature, the activities of religious bodies are always closely linked to the values, beliefs and practices of each religious tradition and each specific community. What we can say is that religious activity goes beyond mere acts of worship to include education and training, social work (very often a religious duty) and any other aspect of community life.

3.2.1. Acts of worship

The types of religious worship are as diverse as the religious traditions and communities found in Barcelona, or the reasons why these bodies organise special events for which their usual meeting place may not be big enough. Some hold acts of worship every day, while others only meet at certain times of the week; some that attach great importance to festivals and others which, rather than festivals, prefer to meet round religious leaders or important figures in their community. All these occasions are vital moments in the community life of these bodies, which coalesce, organise and make themselves present around religion.

3.2.2. Training and educational activities

Training and educational activities are a very important part of the life of most religious bodies in Barcelona. In the main, these are spaces for children and adults to learn more about their own tradition by studying its sacred texts, liturgy, religious practices and so on. In the case of children and young people, this is usually accompanied by leisure and solidarity activities. Many communities also have music groups and choirs that play a vital role in religious worship, and they provide training in areas other than religion, such as Catalan language classes.

3.2.3. Social work

Finally, social work is another basic part of the life of most religious organisations, as

3.3 Main needs and demands of the minority religious bodies and communities in Barcelona

helping the most vulnerable people is seen as a religious duty. Apart from the informal support networks for people in their own community, many run food banks, offer extra schooling and provide sick or elderly people with company and care.

This diversity also extends the types of community organisation and the role played by ministers (pastors, imams, priests, etc.).

The centre of worship is the focal point of the vast majority of religious bodies in our city. Nevertheless, opening and maintaining a place of worship requires a big economic and organisational effort that many communities, especially the smallest ones or those with a lot of members in socially vulnerable situations, find difficult to make. Furthermore, Barcelona's building stock has little to offer them, even those that might have enough resources, in the way of large buildings suitable for religious activity. It should be borne in mind at this point that the city's urban planning regulations do not allow land classified as industrial land to be used for religious purposes which, generally speaking, means that industrial buildings cannot be used to open a centre of worship.

Consequently, a lack of space for certain activities is a situation that a lot of religious bodies face repeatedly, either because they need a bigger capacity than what their regular meeting place offers, or because its structure and layout are not suited to the needs of the activity.

These are mainly occasional or one-off activities, big events such as the main religious festivals (the two big events on the Muslim calendar, for example), meetings of several communities belonging to the same tradition (such as those of the Evangelical Church of Philadelphia), the visit of spiritual leaders or important figures in the communities (for example, that of the Buddhist teacher ThichNhatHahn), processions and other activities which, by their very nature, must take place on public thoroughfares (such as the Easter Week, Baisakhi and Ashura processions). There are also educational activities, especially those for young children and adolescents which require classrooms so they can be done properly.

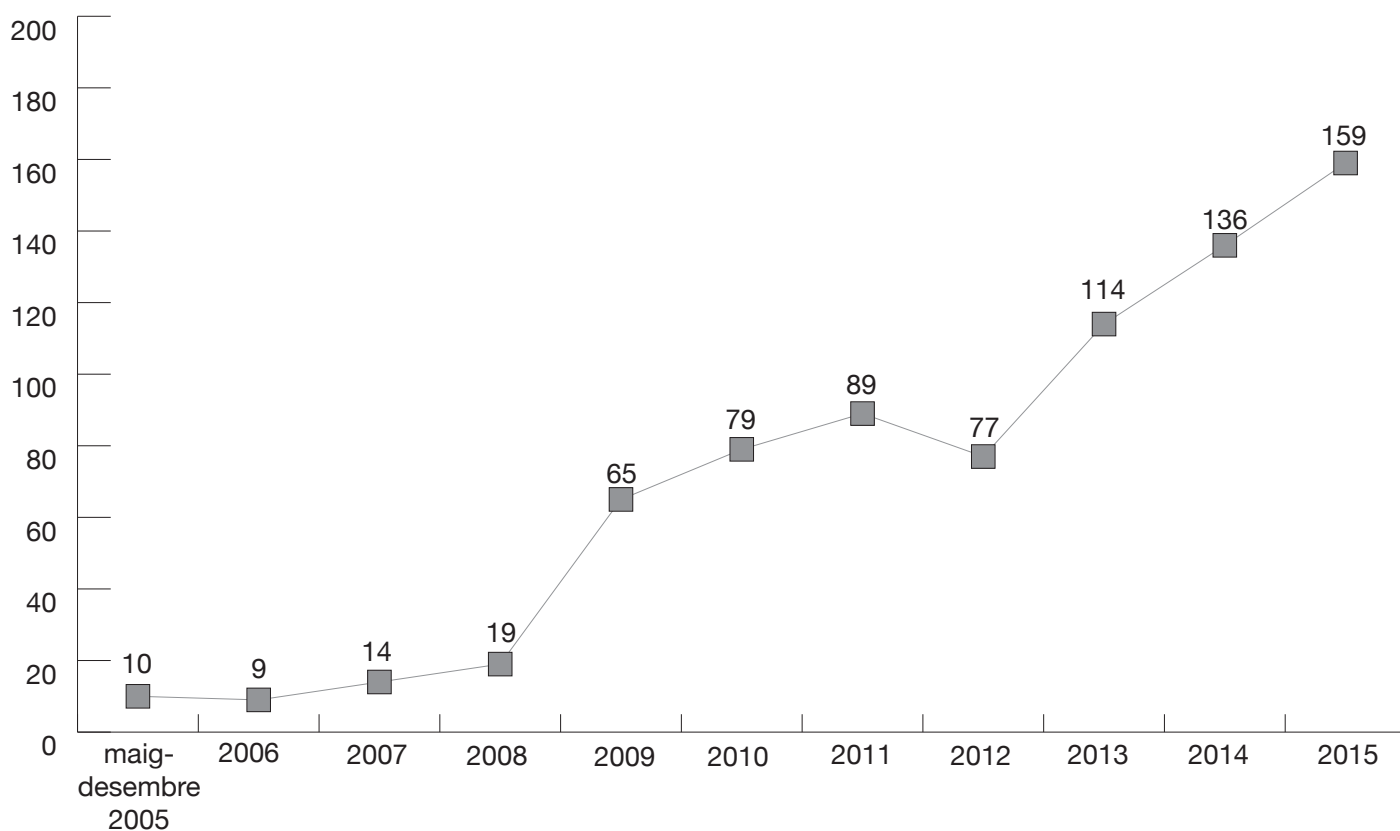
In recent years, the OAR has established itself as a benchmark service for attending to the needs of religious bodies, among its other functions. The graph

shows how more and more of these bodies are seeking the OAR's advice on using municipal facilities and public thoroughfares. As can be seen, in the last

three years there has been a very significant increase in the number of requests for advice, which have doubled.

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Assessorament sobre ús puntual d'equipaments i via pública



Source: Based on OAR data.

4. USE OF PUBLIC SPACE BY RELIGIOUS BODIES

4.1. Specific applicable legislation

The use of public spaces by religious organisations may be allowed for the purposes of holding acts of worship in the open air, especially in those cases where an exceptional number of people from other areas come together. This also applies to activities that follow a route on the public highway (processions, etc.).

Besides the general legislation³ on exercising the right of assembly and authorising occupation of the public highway, there is also specific legislation relating to the right to religious freedom when a religious activity takes place.

The most important specific legislation in this regard is as follows:

- *Framework Act 7/1980, of 5 July, on Religious Freedom*. Article 2.1.d) establishes that religious freedom and the freedom to worship includes the right to assemble and demonstrate publicly for religious purposes.
- *Act 16/2009, of 22 July, on Centres of Worship*. Article 6 states that: “Public authorities must ensure that churches, religious denominations and religious communities are treated equally and not discriminated against in granting and authorising use of public spaces and facilities, private use of the public

domain, temporary occupation of the public highway or use of patrimonial assets for holding specific events and activities of a religious character”.

— *Decree 94/2010, of 20 July, on the Implementation of Act 16/2009, of 22 July, on Centres of Worship*. The Decree lists the minimum information that must be supplied by the organisers of occasional acts of worship they wish to hold in public spaces or facilities. Authorisation must be requested from the competent body in the terms set by the legislation and regulations covering the patrimonial assets of local bodies and, where applicable, by the municipal byelaws, no more than twenty days in advance. In that regard, the competent body needs to know the following details at least: (a) Identity of the organisers; (b) Address of the building or premises where the event will be held; (c) Date and how long it will last; (d) Nature of the event; (e) Expected number of people attending.

3. Framework Act 9/1983, of 15 July, governing the Right of Assembly (amended by Framework Act 9/1999, of 21 April). Act 33/2003, of 3 November, on the Patrimonial Assets of Public Authorities. Act 37/2003, of 17 November, on Noise. Legislative Decree 2/2003, of 28 April, approving the Consolidated Text of the Municipal and Local Government Act of Catalonia. Decree 336/1988, of 17 October, approving the Regulations for Local Authority Assets (RPEL). Byelaw on the Use of Roads and Public Spaces in Barcelona. Tax Byelaw 3.10. Decree 135/1995 of 24 March, on Accessibility and Removing Architectural Barriers. Decree 112/2010 (insurance policy). Mayoral Decree of 23 April 2014, approving the Municipal Self-Protection Planning System (SOAP). Amendment 16 June 2016. Decree 30/2015, of 3 March, approving the Catalogue of Activities and Centres Required to Adopt Self-Protection Measures.

4.2. Subjecting activities organised by religious bodies on the public highway to taxation

One question that deserves special attention is whether the events and activities religious bodies hold in public places are subject to taxation. As taxable entities, religious bodies are not generally exempt from paying taxes. In that sense, neither the 1979 Agreement on Economic Questions between the Spanish State and the Holy See, nor the 1992 cooperation agreements signed with the Muslim, Jewish and Evangelical communities (Acts 24, 25 and 26/1992, of 10 November) contain any legal privilege in relation to local taxes that is applicable to religious faiths.

Nor does Act 49/2002, of 23 December, on the Tax Regime of Non-Profit Entities and Tax Incentives for Patronage expressly envisage local tax breaks for religious entities.

In order to decide whether the activities of religious bodies are liable for tax, it is necessary to distinguish between two types:

- **Taxes that can be levied on administrative activity (authorisation or licence) relating to a religious celebration or gathering on public thoroughfares.** Such activities are not subject to tax, regardless of who is organising them, as they are held in the context of exercising the right to assembly.
- **Taxes that can be levied for private use of the public domain for a religious event that might involve the use of other public services where applicable (clearing up rubbish produced by the event, public safety, urban furniture, etc.)** In cases like these, local councils can levy a municipal tax for private use of the public highway for a religious event, for setting up tables with information in the public domain or for using this domain for other events (cultural, leisure, sport and so on that are planned by the religious organisation requesting such use).

In Barcelona's case, *Tax Byelaw n° 3.10* regulates tax on the private use of the public

domain and the provision of services. Examples of events not subject to tax include those held by associations and *"non-profit organisations⁴ whose immediate aim is the holding of activities of general interest that are the purpose of these organisations"*. To that end, non-profit organisations must meet the following requirements:

1. They must be registered in the corresponding public register.
- 2) They must pursue aims of general interest, for example, the defence of human rights, social care and social inclusion, civic, educational, cultural, scientific, sports, health or other kinds of community or neighbourhood aims, leisure, the defence of the environment and the protection of animals.
- 3) The founders, sponsors, members, representatives and members of the governing bodies, as well as their spouses, persons linked by an analogous relationship of effective cohabitation and relatives to the fourth degree, must not be the main beneficiaries of these activities.
- 4) Posts in the organisation must be free.
- 5) In the event of an organisation being wound up, its assets must go to a similar organisation or purpose.
- 6) They must devote at least 70 percent of their income to aims of general interest.
- 7) Their activity must not consist of economic operations outside the associative purpose of the organisation. To that end, outside economic operation is understood to mean any operation not envisaged by Article 7 of Act 49/2002.
- 8) They must be up to date with their accounting obligations.

4. Article 2 in Act 49/2002, of 23 December, expressly recognises the following as non-profit organisations: (a) foundations; (b) associations declared to be of public interest; (c) non-governmental organisations; (d) the delegations of foreign foundations registered in the Foundations' Register; (e) sports foundations; (f) federations and associations of non-profit organisations.

4.3. Difficulties and problems currently faced by religious bodies in gaining access to public space

Requirement 1 may be demonstrated by presenting the registration. Requirements 2, 3, 4 and 5 by presenting the articles of association or founding rules. Requirements 6, 7 and 8 by a declaration of compliance from the legal person representing the organisation.

The problems religious organisations face in gaining access to public space can be summed up as follows:

- **Overcrowding in certain areas of the public domain.** Intensive use of public space in certain parts of the city also affects requests from religious organisations. Districts such as Ciutat Vella, for example, where the high population density, pressure from tourism and concentration of these organisations makes it difficult to find public space that is available for holding all kinds of events.
- **Lack of foresight on the part of religious organisations.** The precarious nature of some organisations and their ignorance of institutional procedures complicates the task of submitting requests to occupy the public highway sufficiently prior to the event. It should be remembered that the byelaw on the use of public thoroughfares establishes a period of two months in advance for submitting requests. In that regard, coordination with the OAR, which draws up a provisional calendar of events in public places, as well as association training for religious organisations and managing these types of requests, is vital.
- **Ignorance of the procedure for authorising information tables.** It is common for religious denominations to give out information and spread the word on the streets. This type of activity, which includes setting up information tables, is becoming more and more common in our cities, in line with the ever-increasing religious diversity around us. Setting up a table implies occupying part of the public highway and for this, it is necessary to get authorisation. Some religious organisations know nothing about this procedure, which is quicker and easier than getting a permit for organising an activity on the streets. So, in cases such as these, coordination between the OAR

and the corresponding district is vital to ensure that setting up information tables is compatible with everything else that is going on in the public space.

- **Complexity and ignorance of the regulation on paying taxes for using the public domain.** Regulating taxes for use of the public highway is complex and takes a number of factors into account (the party submitting the request, their legal status, the type of activity, etc.). As a result, it has been noted that some religious bodies are unaware of the tax regulations that affect them and that this restricts and puts constraints on their access to the public highway.

Finally, as well as the technical difficulties, there is a disparity in the criteria public em-

ployees might adopt in responding to requests for carrying out these activities. In effect, the decision on requests to occupy the public highway do not just depend on the existing legal framework (regulated ruling), sometimes it calls for the use of a little discretion. However, this entails a risk, that the necessary use of discretion might be based on criteria which are not compatible with the concept of secularism in the current legal framework. There are also occasions when access to public space is denied to a certain religious organisation because the activities it promotes are not considered to be in the public interest and, therefore, cannot be carried out in the public domain. These situations need to be identified and corrected, by adopting clear criteria in accordance with the legal framework in force.

5. THE OCCASIONAL USE OF PUBLIC FACILITIES BY RELIGIOUS ORGANISATIONS

5.1. Applicable legislation and regulations

Act 16/2009, of 22 July, on Centres of Worship in Catalonia, establishes that public authorities must ensure that churches, religious denominations and religious communities are treated equally and not discriminated against in granting and authorising use of public spaces and facilities, private use of the public domain, temporary occupation of the public highway or use of patrimonial assets for holding specific events and activities of a religious character (Article 6).

The regulations for implementing the Centres of Worship Act (Decree 94/2010, of 20 July) are also applicable to the use of municipal public facilities by religious communities. Article 20 envisages such use following authorisation from the corresponding competent authority.

The legislation and regulations on patrimonial assets⁵, referred to in the section on the public highway are also applicable, as are the articles of association regulating the way each facility operates.

Therefore, any request to hire or be allowed the use of space must adhere to the points outlined in relation to use of the public highway, both for religious activities per se and other kinds.

5.2. Difficulties and problems currently faced by religious bodies in gaining access to municipal facilities

Municipal facilities in Barcelona have been holding special events organised by religious and conscientious bodies for a number of years, although in practice it has been detected that different criteria are used with regard to which events can be held in these facilities.

Religious bodies request the use of public facilities or the public highway for celebrations, educational events and community gatherings involving members of the body or denomination when their own centres are inadequate (celebration of religious festivals, meetings of various communities belonging to the same denomination, educational or religious events with spiritual teachers and prominent figures, etc.). In other words, occasional events that coincide with important (annual) dates and special events (for example, visits by spiritual leaders).

Most of these events, apart from those held outdoors, are currently held in sports centres or certain civic centres. The diversity in criteria for authorising the use of municipal facilities for religious events means that in some areas and facilities, permission to hold such events is not usually given.

However, the main difficulties encountered in including some religious events in the dynamic of these facilities are technical and related to the times and frequency of those events.

- **Incompatible times:** Some religious celebrations are traditionally held at night or in the early hours of the morning, times when the municipal facilities are normally closed. In some cases, this can be solved by hiring a caretaker specially, with the religious body paying the extra cost. Night prayers during the month of Ramadan are particularly difficult, due to the time but also because they take place every day for a whole month.

5. See the legislation referenced at the bottom of page 14.

- **Hire charges that are beyond the means of some organisations.** There are currently big differences in the prices different centres charge, with extra costs (especially private security). So, in addition to organisational and timing difficulties, there is the high overall cost when all the possible expenses that come with using a municipal facility are added (floor protection, staff, cleaning, etc.). Very often, this is beyond the means of the religious communities.
- **A lack of suitable spaces for holding these events.** Above all this means a lack of spaces with the right material conditions for holding these events (ample capacity, roofing, independent access that allows them to be used without compromising the rest of the centre, night-time use would not disturb other people, no permanent furniture, etc.)
- **Difficulties in reconciling regular activity with certain activities of the religious organisation.** Another question to be borne in mind is the difficulty municipal facilities have in reconciling their regular activity with the demands of religious organisations.

Sometimes requests from religious and conscientious organisations to use public

facilities receive a negative response which reflects a conception of secularism in the public domain that does not fit with the current legal framework. It is a preconceived idea that does not regard the expression of religious beliefs as a matter of general interest and should therefore be restricted to the private sphere.

In fact, we have noticed that in some cases there is an element of fear regarding the possible “call-effect” these types of religious activities might have, which could lead to municipal centres being swamped. However, the experience of civic centres such as Cotxeres de Sants and Sant Martí de Provençals completely allays that fear. These centres frequently hold events organised by religious bodies but they have had no difficulty in carrying on with their regular activity, nor have they noticed an avalanche of demands they could not cope with.

Finally, an added difficulty is faced by municipally owned facilities run by civic or private management, whose articles of association exclude religious activity. This is a problem that will require special attention, in order to work towards regulatory frameworks that are compatible with current regulations and guaranteeing the right to freedom of religion.

6. GOALS OF THE MEASURE

The goals of the government measure presented here are to:

1. Guarantee the recognised rights of religious freedom are fully exercised by means of municipal support for the activities of religious and conscientious organisations in Barcelona.
2. Guarantee religious bodies and associations are treated equally and not discriminated against in granting and authorising use of public spaces and facilities.
3. Normalise the presence of religious diversity in our society, highlighting religion's various dimensions (spiritual, cultural and communal).
4. Work to improve the occasional access of those religious and conscientious bodies in the most precarious situation to public facilities and the public highway.

7. GOVERNMENT MEASURE LINES OF ACTION

7.1. Increased municipal support for the activity of religious bodies in Barcelona

For years now, Barcelona City Council has opted for recognising the diversity of beliefs and conscience options (religious and non-religious) among the city's citizens in its efforts to promote social cohesion and harmony. This stance is based on two basic principles: guaranteeing the rights of citizens (which is why management of religious diversity has been included in the Citizens' Rights programmes, and the Civil Rights programmes before that) and guaranteeing the secular nature of the public domain, public facilities and public service.

In that regard, Barcelona City Council was one of the first signatories of the European Charter for the Safeguarding of Human Rights in the City which, in Article 3, establishes that:

"Freedom of conscience and individual and collective religious freedom are guaranteed by municipal authorities to all citizens. Within the limits of national legislation, the municipal authorities must take all necessary steps to ensure such rights, and at the same time are called upon to safeguard against the creation of ghettos.

With regard to secular matters, cities encourage mutual tolerance between believers and non-believers, as well as between the various religious communities".

The Barcelona Citizens' Charter includes these same points in Article 29:

"All persons have the right to profess a religious belief in Barcelona, in accordance with current legislation.

The City Council, from its non-confessional position, shall maintain an equitable and balanced relationship with the different denominations and religious beliefs present in the city.

The City Council shall also foster mutual respect between believers and non-believers, as well as between the different religions".

The Council is thus committed to a proactive intervention that guarantees the right of everyone to live according to their beliefs and to creating the conditions that will allow this right to be exercised effectively, while recognising the diversity of religious and conscience options. It does this through the Commissioner for Immigration, Interculturality and Diversity, who is responsible for leading the Council's work in the area of religious diversity, as well as strengthening the Council's relationship with and knowledge of the religious denominations.

In addition to that, the Council has had a specialised service (the OAR) since 2005 to advise and support religious bodies in the city throughout all the processes they must complete with regard to the municipal authority and their immediate environment. The OAR's main tasks include advice and support through the regularisation processes for centres of worship, support for holding activities outside their centre, relations between the different denominations, religious bodies and citizens, and subsidies for religious bodies, among others.

Since 2014, there have been two lines of subsidies associated with religious affairs: one for activities promoting religious diversity, religious celebrations and interreligious dialogue, and another for arranging and fitting out centres of worship.

Increased support for the activities of religious bodies in this government measure includes the following specific actions:

- **Strengthening the OAR.** Another person will be taken on to guide and advise religious bodies in gaining access to public facilities and the public highway, plus support in the city's 10 districts.
- **Association training for religious bodies.** An introduction to associations and managing small associations will be provided in coordination with the

7.2. Planning the holding of occasional religious activities in municipal facilities and on the public highway

OAR and the Generalitat of Catalonia's Directorate-General of Religious Affairs. Besides quarterly activities at the OAR in collaboration with Torre Jus-sana. (Taxes and the Transparency Act, An Introduction to Associations, Subsidies, etc.).

- **Expansion of the subsidy programme for religious bodies.** A 50% increase in the subsidy budget for fitting out centres of worship so those bodies in the most precarious situation can comply with the Centres of Worship Act. An 8% increase the budget for religious bodies.

a. Protocol for the Use of Municipal Facilities by Religious Bodies

The following Protocol for the Use of Municipal Facilities by Religious Bodies has been approved to give staff dealing with requests for the provision of public space with clear, uniform criteria. This protocol is largely based on the reference criteria that the Barcelona Sports Institute (IBE) has been working with in recent years, which were drawn up with the OAR. Criteria which are therefore being expanded to cover other municipal facilities (civic centres, neighbourhood centres and cultural centres).

1. Activities of an occasional or annual character may be authorised if they cannot be held in the religious bodies' own centres.
2. It is essential that the activity fits in with the other, everyday uses of the amenities. Therefore, taking into account the availability of the facility requested, the characteristics of the activity and the area, the facility and/or area staff in charge may offer the religious body an alternative location or date (the religious calendar permitting) to the one requested. In any event, religious bodies shall be guaranteed access to facilities in the area where they are based.
3. The request shall be dealt with according to the normal procedure each facility has for granting use of or hiring out spaces to organisations. The recommended application period for requesting use of sports facilities is at least two months in advance (Article 46.4 of the Byelaw on the Use of Public Roads and Spaces in Barcelona and Article 20 of the Centres of Worship Act Implementation Regulations), although it is possible to be more flexible if the nature of the activity demands it. In the case of civic and neighbourhood centres, the applicable application periods for requesting the use of spaces shall be the same as for other activities.
4. As a general rule, the regulations for using the space in question that apply to

non-profit organisations shall apply in this case. Where space is made available for a large number of people, the requesting body may be required to take out civil liability or private security insurance in order to control the capacity, as required by the regulations for using the space.

5. These acts or events shall be held in accordance with the conditions set out in the activity licence and/or the facility's Prevention Plan. Should the type of activity or its execution alter these conditions, it shall be necessary to apply for the corresponding special activity licence. OAR staff will help with the application.
6. The body concerned shall be responsible for meeting the cost of hiring the space in accordance with the set charges and depending on how long it is used. The possibility of granting neighbourhood non-profit organisations discounts or free use of spaces at civic centres, neighbourhood centres and other centres shall also apply to religious bodies .
7. If it is not possible to finalise the date of the activity, and in the event it might affect other users, a deposit must be paid for the days requested. The full hire charge shall only cover the time the activity lasts.
8. Wherever possible, the religious body may be granted use of the facility's own, ordinary infrastructure under the usual conditions. Should an additional item of infrastructure be required or desired, that body shall meet the cost it might entail.
9. The consumption of food shall only be allowed where it is an essential part of a religious celebration, due to its ritual character or because it is compulsory according to the religious doctrine. Under no circumstances shall the preparation of food be allowed in sports or other facilities that do not have a kitchen. If there is a kitchen, its use must be agreed with the facility management and the costs that derive from its use shall be met by the organising

body. In any event, the organising body may be required to pay any justified additional cleaning expenses for the consumption of food.

10. Should it not be possible to authorise the event, the reasons for this shall be given in the reply and made known to the competent district bodies and the OAR.
11. The length of the activities shall be agreed with the facility or area staff in charge and based on applicable legislation and regulations.
12. In the case of religious bodies that make similar requests every year, provision for this should be made at the start of the year, agreeing any activities that will be held, where and under what conditions. The provisional calendar drawn up by the OAR and which is sent to the districts every quarter shall serve as a reference.
13. In all cases it is advisable to coordinate with the reference district and the OAR.
14. Barcelona City Council shall only promote those activities that foster the integration of religious diversity, defending the values that promote religion in a positive way, as well as human rights, gender equality and the acceptance of democratic rights. Those activities which, due to their characteristics or complexity, may prove more difficult to accommodate in the city's dynamics, shall be subject to a detailed study in order to ensure community harmony.

b. Protocol for the Use of the Public Highway for Religious Meetings and Celebrations

Use of the public highway by religious communities may be required for religious worship in the open air, which usually brings an exceptional number of people from different places together, or to celebrate festivals that require following a certain route on public thoroughfares.

1. The competent body for authorising occasional acts for exercising the right

to worship or celebrating religious festivals on the public highway is Barcelona City Council. In such cases, a request for a licence to hold an activity in the public domain should be submitted to a public registry (OAC - Citizen Advice and Information Office - or any other registry) by completing the corresponding form.

2. The decision-making process shall ensure there is equal treatment and no discrimination, with an interpretation that is always favourable to the person or organisation submitting the request, as this involves the exercise of a basic right.
3. Municipal rulings rejecting a request must provide reasons. The restrictions placed on the right to freedom of religion and worship are the maintenance of public order, protected by law, and the principle of equality. The presumed interest of the activity or any minor inconvenience it might cause other people are not sufficient justification for denying the award of a licence. In the event of a request being turned down, a local authority suggestion for an alternative date and/or place, route or duration, depending on the case, shall be considered.
4. These kinds of activities on the public highway are subject to a licence, in accordance with the prevention and safety conditions set out in the protocols for events on the public highway. The safety measures that must be ensured for these activities shall be the same as those established in the protocols for events of similar characteristics.
5. In the case of religious bodies that make similar requests every year, provision for this should be made at the start of the year, agreeing any activities that will be held, where and under what conditions. This shall be based on the provisional calendar drawn up by the OAR and sent to the districts every quarter.
6. In all cases it is advisable to coordinate with the competent district and council

areas, the office of the Commissioner for Immigration, Interculturality and Diversity and the OAR.

7. Activities organised by religious bodies in exercising the right of assembly (religious gatherings and celebrations anyone can take part in) shall not be subject to taxation, except for the requirement to request the corresponding licence. For other acts of worship involving the private use of public space, the only bodies that shall be exempt from paying taxes shall be those associations and non-profit organisations⁶ that can verify their status by meeting the requirements set out in Article 3 of Tax Byelaw n°. 3.10.
8. Use of the public highway for temporary information installations shall be subject to the corresponding authorisation, provided it actually does involve occupying the public highway. Any decision to prohibit the setting up of information tables shall be based on objective reasons and may not be justified merely by the difficulties or minor inconvenience it might entail for the movement of people round them. The processing of these requests shall be monitored in coordination with the OAR
9. Activities organised by religious bodies in exercising the right of assembly (religious gatherings and celebrations anyone can take part in) shall not be subject to taxation, except for the requirement to request the corresponding licence. For other acts of worship involving the private use of public space, the only bodies that shall be exempt from paying taxes shall be those associations and non-profit organisations⁷ that can verify their status by meeting the requirements set out in Article 3 of Tax Byelaw n°. 3.10.

6. Those organisations referred to in Article 2 of Act 49/2002, of 23 December, on the Tax Regime of Non-Profit Entities and Tax Incentives for Patronage.

7. Those organisations referred to in Article 2 of Act 49/2002, of 23 December, on the Tax Regime of Non-Profit Entities and Tax Incentives for Patronage.

7.3. Religious diversity training plan

10. Authorisation shall not be granted to those activities that might violate human rights, gender equality or the acceptance of democratic rights. However, those activities which, due to their characteristics or complexity, may prove more difficult to accommodate in the city's dynamics, shall be subject to a detailed study in order to ensure community harmony.

This government measure envisages a line of action involving training initiatives designed to raise general public and public employee awareness of the religious diversity that exists in the city.

These training initiatives may be summed up in the following lines of work:

- **Basic training for municipal service staff** on granting use of space in public facilities and licences for activities on the public highway. These training sessions will last approximately 2 or 3 hours and be run by neighbourhood staff, prevention staff and staff who deal with requests to use the public highway. They will go into Barcelona's governance model for religious diversity and the action criteria envisaged by this measure, as well as other aspects of religious diversity in the city. Explanatory handbooks will be provided for the training.
- **Tailored training on specific issues** in the event of conflicts or specific problems arising in relation to religious diversity. These will be run by specialist staff from the OAR and the Generalitat of Catalonia's Directorate-General of Religious Affairs.
- **Outreach activities to promote awareness of the centres of worship and religious diversity in the city** among a wider public. These activities include:
 - *Visits to centres of worship* organised by the OAR and Espai Avinyó.
 - *Series of talks* in collaboration with the Library Consortium (Series of activities on Women and Religions. March 2017).
 - *Training and awareness-raising activities at the OAR* (Course on minority religions, July 2016).
 - Learning suggestion *Places of Worship, Spaces for Discovery*.

7.4. Drafting and disseminating guides on managing religious diversity in various spheres, to guarantee the right to religious freedom

- *New website El Correu de l'OAR* (includes news in a blog format, a calendar of religious celebrations and an events diary).
- Drawing up of an *activities programme* at the OAR centre.
- *Religion Night*: an open night for centres of worship and religious bodies. This is an AUDIR (UNESCO Association for Interreligious Dialogue) event, organised with support from the Area of Citizens' Rights and Diversity, and held for the first time this year.

We are working on a guide to respect for the diversity of beliefs in the city.

This guide will include the action protocols of this government measure and provide the tools for both municipal employees and religious bodies that organise events and activities in the public domain.

It will also provide the reference material for training aimed at staff involved in managing and resolving requests from religious bodies to use public assets.

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8. BUDGET

	2016	2017	2018	2019
OAR reinforcement	—	35,000	35,000	35,000
Subsidy programme for renovating centres of worship	150,000	150,000	—	—
General call for subsidies	70,000	70,000	70,000	70,000
Religious diversity training plan	—	15,000	5,000	5,000
Production of religious diversity management handbooks	—	15,000	—	—
TOTAL	220,000	285,00	110,000	110,000

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**Direcció de Serveis
de Drets de
Ciutadania i Diversitat**

Government Measure
On guaranteeing
equal treatment
for religious bodies